

## REMARKS

This Response is submitted in reply to the Office Action dated May 4, 2006, and in accordance with the telephone interview conducted with the Examiner on July 20, 2006. Claims 1, 19, 29 and 32 have been amended for clarity. No new matter has been added by these amendments. Reconsideration in view of the above amendments and the following remarks is respectfully requested.

Applicants have submitted a Supplemental Information Disclosure Statement herewith. Please charge Deposit Account No. 02-1818 for any fee due in connection with the filing of this Response and the Supplemental Information Disclosure Statement.

Applicants thank the Examiner for courteously granting the telephone interview on July 20, 2006. The following remarks constitute Applicants' written statement as to the substance of the interview.

The Office Action rejected Claims 1 to 11, 14, 15 and 17 to 38 under 35 U.S.C. §103(a) as being unpatentable over Tracy (U.S. Patent No. 6,296,568) in view of Plinko (premiered on TV show The Price Is Right 1983; hereafter "Plinko"). Applicants respectfully disagree with and traverse this rejection for at least the reasons discussed below.

Applicants note that the statement of the rejection rejects Claims 1 to 11, 14, 15 and 17 to 38 under 35 U.S.C. §103(a) as being unpatentable over Tracy in view of Plinko. However, the body of the rejection discusses Claims 1, 2, 4 to 20 and 22 to 38. Applicants presume that the Office Action intended to reject Claims 1, 2, 4 to 20 and 22 to 38 under 35 U.S.C. §103(a) as being unpatentable over Tracy in view of Plinko and have responded to the Office Action accordingly.

As discussed during the telephone interview, neither Tracy nor Plinko, whether analyzed alone or in combination, disclose, teach or suggest, a gaming device that includes, amongst other elements: (1) an award position that is generated, determined or selected from a plurality of award positions and (2) after the award position is generated, determined or selected, an object that is configured to move to the generated, determined or selected end position from a start position along a predetermined path extending from the start position to the generated, determined or selected end position

Tracy teaches a gaming device that includes display 10 having a pyramid or triangular game board 12 with an apex 14, a base 16 and a plurality of pins 18 disposed between apex 14 and base 16. A plurality of locations 20a-q are disposed at base 16 to define outcomes 22a-f for the game (col. 2, line 64 to col. 3, line 7). During play of the game, one or more objects or balls 24 start at the apex 14 and deflect off pins 18 during travel along the game board 12 toward the outcomes 22a-f. Tracy teaches that outcomes 22a-f with the highest payout (e.g., lower probability) are located near the boundaries 26, 28 of the game board 12 while the outcomes 22a-f with the lowest payout (e.g., higher probability) are located along the center of the base 16 (Figs. 1 and 2 and col. 3, lines 34-39). In Tracy, the operator influences the balls 24 to travel from the apex 14 and land in certain outcomes 22a-f in accordance with determined game odds or math.

As recognized by the Office Action, Tracy does not disclose or teach a plurality of different start positions for the ball and an input device operated by a player to select one of the plurality of different start positions. The Office Action relies on Plinko to teach these elements. Plinko teaches a mechanical pachinko-type game played without wagers. In Plinko, an object or disc travels along a game board. The object appears to be initially positioned at a position selected by a player along the top of the game board. On each drop of the object, the object travels along the game board to various end positions and the player accumulates points or prize values when the object lands in one of the end positions.

The Office Action speculated that it would be advantageous for one skilled in the art to combine Tracy with Plinko to "have included a player selectable starting point for the object to drop from, thus allowing [the] player to be in control and making the game more exciting and stimulating player's interest". It is respectfully submitted that the Office Action's motivation to modify or combine the teachings of Tracey in accordance with Plinko would merely be a product of impermissible hindsight analysis because providing the player with multiple player-selectable start positions as taught by Plinko does not apply to and teaches away from the apex start position of the triangular game board of Tracy. In particular, the triangular game board of Tracy is structured so that the ball 24 starts at the apex 14 and moves toward the lower paying outcomes located

along the center of the base 16 (col. 3, lines 34-41). In the preferred embodiment of Tracey, each pin 18 has an equal probability of deflecting the ball 24 to the left or to the right of the pin. The central position of the apex 14 helps the operator to influence movement of the ball 24 toward the lower paying outcomes located along the center of the base 16. In another embodiment of Tracey, upper pins 18 have a higher probability of moving the ball 24 toward the boundaries 26 and 28 of the game board 12 and lower pins 18 have a higher probability of moving the ball 24 toward the center of the game board 12. In either embodiment, the determined game odds or math are based on the ball 24 starting at the apex 14 and cause the ball 24 to move toward the lower paying outcomes more often than the higher paying outcomes located near the boundaries 26 and 28 of the game board 12. Tracy teaches that the apex start position and the pyramid or triangular game board give the player the illusion that the player has a better chance of winning than actually occurs, make the game more exciting, and stimulate player's interest (col. 3, lines 34-41). As described above, the operator in Tracy influences the ball 24 to land in certain outcomes 22a-f in accordance with determined game odds or math. Thus, the triangular game board structure specifically disclosed in Tracy teaches away from accommodating the multiple start positions of Plinko as proposed by the Office Action because such a modification would ruin the game odds or math taught by Tracy and cause the operator to lose control of the probabilities or percentages of the outcomes 22a-f.

There is no motivation or suggestion in either Tracy or Plinko for the modification proposed by the Office Action. Modifying the gaming device of Tracy to include multiple start positions as taught by Plinko, and proposed by the Office Action, would require substantial alteration of the triangular game board and game odds of Tracy. Such alteration would appear to render Tracey unsatisfactory for its intended purpose. As stated above, the triangular game board of Tracy is specifically structured so that the ball 24 starts at apex 14 and moves toward the lower paying outcomes while the ball approaches the base 16. This structure enables the operator to control the probabilities or percentages of the outcomes 22a-f as described above. Tracy does not teach or suggest that the pyramid or triangular game board can accommodate multiple start

positions, nor does Plinko provide any suggestion or motivation for one skilled in the art to modify Tracey in this manner.

Regardless of whether it would be obvious to modify or combine Tracy in view of Plinko in such a manner, neither Tracy nor Plinko individually or in combination, teach, disclose or suggest a gaming device as recited in independent claims 1, 19, 29 and 32. In particular, the combination of Tracy and Plinko does not teach or suggest a gaming device that includes, amongst other elements, an award position that is generated, determined or selected from a plurality of award positions and after the award position is generated, determined or selected, an object that is configured to move to the generated, determined or selected end position from a start position along a predetermined path extending from the start position to the generated, determined or selected end position as in independent claims 1, 19, 29 and 32.

Page 3 of the Office Action states that:

Tracey teaches a moving display device or an object falling from the start position, to have equal probability of deflecting to either right or left, thus creating different a predetermined paths, since the probability of the object deflecting either to the left or to the right is even, from the start position to each of the award positions (col. 3, line 27-29). [sic]

This statement appears to contradict the teachings of Tracey which, in col. 3, lines 24-29, states that "if the operator wishes the path to be completely random, the ball 24 would have an equal probability (50/50) of being deflected to either side when it hits a pin 18". Moreover, Tracey teaches that the operator associates a probability with each pin. The probability influences the direction that the ball 24 will deflect from each pin 18 as the ball 24 traverses the game board. In one embodiment, the probability is equal so that the ball 24 has a 50/50 chance of being deflected to either side of each pin 18. The gaming device of Tracey uses these probabilities to determine a path for the ball 24 toward one of the outcomes 22a-f. In Tracey, the ball 24 starts at apex 14 and contacts a first pin 18. Based on the probability associated with this first pin, the gaming device of Tracey determines the direction of the ball 24. After this determination, the ball 24 is deflected to a second pin 18. Based on the probability associated with the second pin 18, the gaming device of Tracey determines the direction of the ball 24.

This process continues for each pin until the ball 24 lands in one of the outcomes 22a-f. Accordingly, the path of the ball 24 is determined as the ball 24 traverses the game board 12 and the ball 24 does not move along a predetermined path from the apex 14 to one of the outcomes 22a-f. In Tracey, one of the outcomes 22a-f is selected after the ball 24 traverses the game board 12 and thus one of the outcomes 22a-f is not generated, determined or selected prior to the ball 24 traversing the game board 12. On the other hand, amended independent Claims 1, 19, 29 and 32, include an award position that is generated, determined or selected from a plurality of award positions and after the award position is generated, determined or selected, an object that is configured to move to the generated, determined or selected end position from a start position along a predetermined path extending from the start position to the generated, determined or selected end position.

In another embodiment, Tracey teaches weighting the probability associated with each pin 18 so that some pins deflect the ball 24 in one direction more than another direction. For example, Tracy teaches that upper pins 18 deflect the ball 24 toward the higher paying (e.g., lower probability) outcomes located near the boundaries 26, 28 of the game board 12 while the ball 24 is near apex 14 and lower pins 18 deflect the ball 24 toward the lower paying (e.g., higher probability) outcomes located along the center of the base 16 as the ball 24 approaches the base 16. As described above, the path of the ball 24 is determined as the ball 24 traverses the game board 12 and the ball 24 does not move along a predetermined path from the apex 14 to one of the outcomes 22a-f. As described above, one of the outcomes 22a-f is selected after the ball 24 traverses the game board 12 and thus one of the outcomes 22a-f is not generated, determined or selected prior to the ball 24 traversing the game board 12. For at least these reasons, Tracey does not teach an award position that is generated, determined or selected from a plurality of award positions and after the award position is generated, determined or selected, an object that is configured to move to the generated, determined or selected end position from a start position along a predetermined path extending from the start position to the generated, determined or selected end position as in independent Claims 1, 19, 29 and 32.

Plinko does not remedy this deficiency in Tracey. Plinko teaches a mechanical pachinko-type game with multiple start positions along a top of a game board from which a player positions an object or disc. When dropped by the player, the object or disc traverses the game board toward various end positions to accumulate points or prize values. Plinko teaches no way of controlling the path of the object or which end position the object will land. Thus, Plinko does not teach an award position that is generated, determined or selected from a plurality of award positions and after the award position is generated, determined or selected, an object that is configured to move to the generated, determined or selected end position from a start position along a predetermined path extending from the start position to the generated, determined or selected end position as in independent Claims 1, 19, 29 and 32.

Any combination of Tracy and Plinko would provide start positions to the left and right of apex 14 (assuming, *arguendo*, that such a combination could be made). As a result, the multiple starting positions of the proposed combination of Tracey and Plinko would ruin the game odds or math taught by Tracy and cause the operator to lose control of the probabilities or percentages for the outcomes 22a. Moreover, the proposed combination of Tracy and Plinko does not teach an award position that is generated, determined or selected from a plurality of award positions and after the award position is generated, determined or selected, an object that configured to move to the generated, determined or selected end position from a start position along a predetermined path extending from the start position to the generated, determined or selected end position as in independent Claims 1, 19, 29 and 32. Accordingly, independent claims 1, 19, 29 and 32 are patentable over the proposed combination of Tracy and Plinko. Specifically, the proposed combination of Tracy and Plinko does not disclose, teach or suggest a gaming device operated under the control of a processor that comprises, amongst other elements:

(A) (i) after one of the plurality of start positions is selected by the player activating the input device; (ii) the award position is determined by the processor from the plurality of award positions, wherein for at least one of the start positions (a) a first one of the award positions is more likely to be generated than a second one of the award positions, and (b) the first award position is displayed by the display device closer

in proximity to an area of the start area which is part of the start position than the second award position; (iii) after the award position is determined, the object moves along one of the predetermined paths from the selected start position to the determined award position, and (iv) wherein any award associated with the determined award position is provided to the player, as in independent Claim 1;

(B) (i) one of the start positions is selected by the player activating the input device; (ii) the award position is determined by the processor, wherein for each of the start positions (a) a first one of the award positions is predetermined to be generated more often than a second one of the award positions, and (b) the first award position is displayed by the display device closer in proximity to an area of the start area which is part of the start position than the second award position; (iii) after the award position is determined, the object moves along one of the predetermined paths from the selected start position to the determined award position by the processor, and (iv) wherein the award associated with the determined award position is provided to the player, as in independent Claim 19;

(C) wherein one of the award positions is generated based on a selected start position and probabilities associated with the selected start position for generating each of the award positions from each of the start positions, wherein the probabilities are structured such that award positions closer in proximity to the selected start position are selected more often than are award positions further in proximity to the selected start position, wherein after one of the award positions is generated, the object moves from the start area to a generated award position along one of the predetermined paths and the award associated with the generated award position is provided to the player, as in independent Claim 29; or

(D) a plurality of start positions, a plurality of end positions spaced apart from the start positions, a plurality of different predetermined paths from the start positions to the end positions including a predetermined path from each start position to a selected end position, and an object displayable by a display device, wherein after the end position is

selected, the object is configured to move from one of the start positions to the selected end position along one of the predetermined paths and a processor selects one of the predetermined paths from one of the start positions to the selected end position based on the probability associated with the selected end position as in independent Claim 32.

Claims 2, 4 to 20 and 22 to 38 depend directly from one of independent claims 1, 19, 29 and 32 and are also allowable for the reasons given with respect to independent claims 1, 19, 29 and 32, and because of the additional features in these claims. For example, dependent Claims 35 to 38 specifically recite that each start position includes the same total number of paths, which is not taught or suggested by the proposed combination of Tracey and Plinko. Tracey teaches one start position and Plinko teaches multiple start positions, but neither Tracey nor Plinko, whether analyzed alone or in combination, teach or suggest that each start position includes the same total number of paths.

Dependent Claims 3 and 21 were rejected under 35 U.S.C. §103(a) as being unpatentable over Tracy, as modified by Plinko, and in view of Dietz (U.S. Patent No. 5,704,835). Applicants respectfully disagree with and traverse this rejection for at least the reasons discussed below.

Dietz is an electronic slot machine which allows a player to completely respin one or more of the symbols displayed after the first spin in order to create, improve or even lose a winning combination. Dietz does not remedy the deficiencies noted above with respect to the proposed combination of Tracy and Plinko as relating to independent claims 1 and 19. Accordingly, the combination of Tracy, Plinko and Dietz does not teach or suggest all of the elements in independent claim 1 (and its dependent claim 3) or independent claim 19 (and its dependent claim 21).



An earnest endeavor has been made to place this application in condition for allowance and is courteously solicited. If the Examiner has any questions related to this Response, Applicants respectfully request that the Examiner contact the undersigned below.

Respectfully submitted,

BELL, BOYD & LLOYD LLC

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Adam H. Masia  
Reg. No. 35,602  
Customer No. 29159

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